

1 SHEPPARD MULLIN RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
GUY N. HALGREN, Cal. Bar No. 115732,
3 SAMANTHA D. HARDY Cal. Bar No. 199125
MATTHEW S. DENTE, Cal. Bar No. 241547
4 501 West Broadway, 19th Floor
San Diego, California 92101-3598
5 Telephone: 619-338-6500
Facsimile: 619-234-3815
6 ghalgren@sheppardmullin.com
shardy@sheppardmullin.com
7 mdente@sheppardmullin.com

8 Attorneys for Defendant
9 THE PEPSI BOTTLING GROUP, INC.

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 JOSE CASTELLANOS,

16 Plaintiff,

17 v.

18 THE PEPSI BOTTLING GROUP, AND
DOES 1 THROUGH 100, INCLUSIVE,

19 Defendants.
20
21
22
23

Case No. c 07-03961 WHA

**STIPULATION AND ~~PROPOSED~~
ORDER REMANDING CASE TO
STATE COURT**

[Complaint Filed: June 26, 2007]

Trial Date: November 3, 2008

24 IT IS HEREBY STIPULATED by and between plaintiff Jose Castellanos
25 ("Plaintiff") and defendant The Pepsi Bottling Group, Inc. ("PBG"), through their
26 respective attorneys of record, as follows:
27
28

1 WHEREAS on August 1, 2007, Defendant The Pepsi Bottling Group, Inc.,
2 filed a Notice of Removal of Action pursuant to 28 U.S.C. § § 1332(d) and 1441(a)-(c)
3 with the United States District Court for the Northern District of California;
4

5 WHEREAS, at the time of removal, PBG analyzed Plaintiff's Complaint and
6 determined it would be objectively reasonable to conclude the damages sought would
7 exceed the \$5,000,000 amount in controversy requirement for the Class Action Fairness
8 Act ("CAFA");
9

10 WHEREAS, since the time of removal, counsel for Plaintiff and PBG have
11 met several times to discuss this matter, including jurisdictional issues;
12

13 WHEREAS, Plaintiff has represented to PBG that there is insufficient
14 information to conclude that the damages will exceed \$5,000,000;
15

16 WHEREAS, this court may not exercise subject matter jurisdiction over this
17 class action based on CAFA when the matter in controversy is less than \$5,000,000,
18 exclusive of interest and costs; and
19

20 WHEREAS, there is no other basis for subject matter jurisdiction over this
21 class action.
22

23 THEREFORE, the parties stipulate as follows:
24

25 1. Although PBG had an objectively reasonable basis for concluding
26 Plaintiff's Complaint sought damages in excess of \$5,000,000 and for removing this matter
27 to the District Court, CAFA's requirements are not met and were not met at the time of
28 removal.

2. This matter will be remanded back to state court.

3. All deadlines and dates for discovery served and depositions noticed while this matter was pending before the District Court will be continued to the following dates, subject to additional extensions as agreed between the parties:

(a) All noticed depositions will be rescheduled for sometime after January 18, 2008.

(b) All responses to written discovery will be due January 18, 2008, with the exception of the discovery referenced in subsection (c) below.

(c) PBG's response to Special Interrogatory No. 9 will be due December 21, 2007.

4. This Stipulation will not in any way limit or cap Plaintiff's damages, although PBG does not believe the damages exceed \$5,000,000.

DATED: November 28, 2007

RIGHETTI LAW FIRM, P.C.

By /s/ John Glugoski

JOHN GLUGOSKI

MATT RIGHETTI

Attorneys for Plaintiffs
JOSE CASTELLANOS

1 DATED: November 28, 2007

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3
4 By /s/ Samantha Hardy

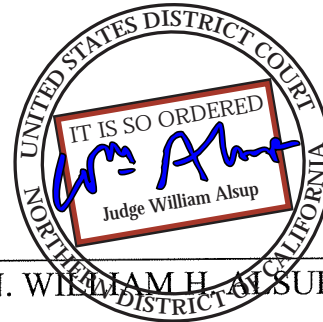
5 GUY N. HALGREN
6 SAMANTHA D. HARDY
7 MATTHEW S. DENTE

8 Attorneys for Defendant THE PEPSI BOTTLING
9 GROUP, INC.

10
11 **ORDER**

12 IT IS SO ORDERED.

13
14 Dated: November 29, 2007



15 HON. WILLIAM H. ALSUP
16
17
18
19
20
21
22
23
24
25
26
27
28